IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 3226 of 2004

SMT. SUKHI KANWAR
V/S
STATE & ORS.

Mr. GL PRAJAPAT for Mr. SP SHARMA, for the petitioner

Mr. SS LADRECHA, A.G.A., for the respondent

Date of Order : 16.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

The petitioner by this petition has claimed a direction to the respondent to release the pension, and the arrears until last day of survival i.e. 30.8.99 as the heir of Girdhari Singh.

The case of the petitioner is that her husband served as a Security Guard/Peon for more than 10 years, and was given retirement on 31.1.95 on attaining the age of superannuation. However, he died on 11.9.99 without being given retirement benefits, except Provident Fund amount. It is alleged that Girdhari Singh was appointed by respondent-department as Security Guard after being retired from the Army on daily wages of Rs.17/-. Then vide order dated 31.12.88, he was made semi-permanent. On completion of 10 years of service, a letter was sent by the Assistant Engineer for making him permanent. However, the respondent

No.5 sought directions from respondent No.4 for giving retirement to Girdhari Singh, as he had completed the age of superannuation, which direction was accordingly given. Accordingly, retirement order was issued on 31.12.94. The length of service of the petitioner was counted from 1.8.86, and thus, taking him to have not completed 10 years of service, he was denied the pension.

A reply has been filed contending that retirement age was 58 years, and he was rightly retired on completion of 58 years of age, and that since as on the cut off date the petitioner had completed only 9 years, 6 months and 8 days of service including the service rendered on muster-roll, and therefore, since he has not completed 10 years of service, he was not declared permanent, and was rightly denied pension.

In my view, it is clear that as on the cut off date i.e. 31.12.93, the deceased employee had not completed 10 years of service, and therefore, he was rightly denied the pension. It is a different story that he was already admittedly retired from the Army, and must have been getting pension there-from.

Thus, I do not find any sufficient ground to interfere in favour of the petitioner.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

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